

## REMARKS

Claims 34-45 are pending in this application. The Examiner's indication that claims 41 and 42 are drawn to allowable subject matter is noted with appreciation.

Claims 34, 36 and 37 have been amended to correct for antecedent basis.

Claim 34 has been amended to reflect the allowable subject matter of claims 41 and 42. Claim 43 has been amended to depend from allowable subject matter recited in allowable claim 41. Based on the amendments above, claims 34-45 should now be in *prima facie* condition for allowance, and the rejections of these claims as being obvious over Finn or a combination of Finn in view of Price should now be overcome.

Claim 46 has been added and is in similar format to claim 34 (prior to amendment herein), and is focused on situations where the event record is tampered with. Claim 46 is new and unobvious over U.S. Patent 6,512,455 to Finn, and is unobvious over any combination of Finn and U.S. Patent 6,052,068 to Price; therefore, the rejections lodged in the previous office action are traversed.

The Finn reference is drawn to a system and method for monitoring assets, objects, people and animals utilizing impulse radio. Column 20, lines 39-43 of Finn, which were identified by the Examiner, refer to "sensors 1126 [are] attached and interfaced with individual pieces of cargo 1134, and can be used to monitor any desired status and are interfaced via sensor interfaces" (emphasis added). The Examiner has suggested that these sensors may be used for monitoring tampering with cargo or locks associated with the cargo. The undersigned disagrees since Finn merely discusses the status of the cargo, and does not discuss an action such as tampering with the cargo or an action not specifically related to the cargo itself, such as tampering with the locks. The Examiner has further suggested that these sensors may be used to sense tampering with the event recorder in itself in Finn. This position is simply in error. If the sensors are associated with the individual pieces of cargo, as is described in Finn, then they are not used in, and would not be suggested to one of ordinary skill in the art for use in, monitoring the event recorder itself.

In short, Finn simply does not teach or recognize that a monitor may be tampered with to provide false information about the cargo being monitored. Finn does not teach or suggest that false data may be substituted for the actual cargo data and transmitted to a receiver. In some instances, tampering with the cargo while maintaining a signal within an acceptable range may be trivial.

In sharp contrast, the applicants have taught, and claimed in claim 46, detecting tampering with the monitor itself, and being able to take certain actions in response to that tampering.

The Price reference does not make up for the deficiencies of Finn. Price describes the use of an encrypted signal, as well as the use of a plurality of vehicle identification tags where if one tag is separated from the others an alarm signal is transmitted, or if one of the tags is tampered with an alarm signal is transmitted. The identification tags are not an event recorder. Moreover, Price does not teach how to make a tamperproof vehicle identification tag which will withstand physical intrusion. Figure 4 of prices shows that the tag receives encrypted registration information which is decrypted by decrypter 62 and then read by processor 64 and stored in memory 64 or 66. The registration information which passes through the decrypter 62 is encrypted prior to storing in memory. Price does not teach how to protect the tag against physical intrusion of the memory using a tamperproof package. A second method of inputting fraudulent information may achieved by physical intrusion of the package and inputting data to processor 64 by circumventing decryptor 62.

In view of the above, claim 46 should be deemed new and unobvious over the references of record.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to International Business Machines Corporation Deposit Account 50-0510.

Respectfully submitted,



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